

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

G. SMITH,

Case No. 1:17-cv-00712-CL
ORDER

Plaintiff,

v.

JILL LIMERICK,

Defendant.

AIKEN, District Judge:

Magistrate Judge Mark Clarke filed his Findings and Recommendation (“F&R”) (doc. 26) recommending that defendant’s Motion to Dismiss (doc. 22) should be GRANTED in part and DENIED in part. The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge’s F&R, the district court must make a *de novo* determination of that portion of the magistrate judge’s report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982).

Defendant filed timely objections to the F&R (doc. 28), and plaintiff filed a timely response to those objections (doc. 29). Thus, I review the F&R *de novo*. Having reviewed the record, I find no error in Judge Clarke's F&R.

Thus, I adopt Magistrate Judge Clarke's F&R (doc. 26) in its entirety. Accordingly, the Motion to Dismiss (doc. 22) is GRANTED in part and DENIED in part. Plaintiff's claims for breach of contract and breach of the implied covenant of good faith and fair dealing are dismissed with prejudice, while the claims for fraud and conspiracy to defraud are dismissed with leave to amend. The request for oral argument is DENIED as unnecessary.

IT IS SO ORDERED.

Dated this 26th day of September, 2018.



Ann Aiken
United States District Judge